

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-X

VICTOR RIVERA,

15-CV-2197 (VSB)

Plaintiff,

-against-

**REPLY TO DEFENDANTS MOTION
FOR
SUMMARY JUDGMENT**

GEORGE GOULART,

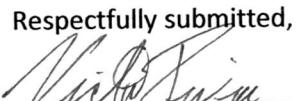
Defendant.

-X

This Reply to Defendants Motion For Summary Judgment pursuant to Rule 56, made for the defendants, by Ms. Kaitlin Fitzgibbon, Assistant Corporation Counsel, New York City Law Department, 100 Church Street, New York, New York, 10007. Is to be presented and delivered to the Court Room of the Honorable Justice Broderick, Vernon S., at United States District Court, Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, 10007, in the morning of the 12th day of March 2018.

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SOUTHERN DISTRICT OF NEW YORK
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Respectfully submitted,

Victor Rivera, Pro Se

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There is no way to deny being away from the civilian lifestyle has delayed and hurt this case in more ways than one. I remember in a Case Conference by telephone on January 27, 2017, this most Distinguished Court asked of me, where, if any, is the evidence and supporting documents to my complaint? My response to Justice Broderick was in my laptop. From there it was ORDERED to contact the Bronx Defenders Association in the hope the assigned attorney on most of the cases referred to in this complaint 15 Civ. 2197 cases where I was arrested by North Bronx Narcotics Bureau, a bureau under the NYPD Division of Organized Crime, could that attorney provide insight and understanding to support my most fundamental claim: the cases and most of the arrest were not supported by criminal activities or evidence of a felony.

I have reread my original complaint filed with the Pro Se Office of the Southern District of New York located at: 500 Pearl Street, Room 230, New York, New York, 10007. Please remember most importantly, I filed this complaint as a Citizen of the United States at liberty to move freely within the country of my birth and the country I served as a Vietnam Veteran.

These are the claims made therein: Freedom of movement, Freedom from illegal searches and seizures, arrested and charged without evidence to support the arrest let alone

the charges creatively made for arrest purposes, malicious encounters initiated by narcotics detectives from North Bronx Narcotics Bureau. On March 19, 2012 I was arrested by Detective Goulart and charged with violations of narcotics laws but there was no evidence to support the arrest nor the charges, but I was put through Central Booking because he had a NYPD Badge and the authority to do so. One person of integrity voiced her opinion on the matter by asking if he was going to take the handcuffs off considering there was no crime and no possession of drugs; a female officer, Detective Rosa Gonzaleznoa (930246). I am a Pro Se litigant presenting my problems to the court, so when I say Malicious (the common man meaning as stated in a dictionary). I mean a person who comes at you with the intention of doing you undeserved harm. The intent of the interaction is for you to suffer, or better said, for me to suffer from the pain and suffering that can be inflicted by Detective Goulart. What is that pain and suffering. It is not so much physical as it is the type of mental damage that goes on after the normal physical pain of a smack or a punch goes away. It is that thing in your head that endures. I don't know the legal definition of malicious prosecution or what that even means. I know a bad act when I am the object of its performance and that is what I have tried to tell this court from the first day I filed this claim. It is not about property. The property issue has been more initiated and developed by the defense. For me it is the red herring of this case. Let us get all the attention away from the real issues by misdirection of the main issue making it a claim of property and how this petitioner failed to claim his property. Keep the property if you like it so much, I don't.

Property is meaningless in the scope of the shame I was made to feel by these officers. Two who held 9mm pistols while the third sexually touched me: squeezed my buttocks, took a

pen and moved my penis and tentacles from one side to the other. All of this in the bright sunshine of a summer day on the Grand Concourse while the grey van driven by North Bronx Narcotics (NBBX), officers stopped me and all uptown traffic by 199th street and Grand Concourse in the month of June 2012 a week after the arrest of June 12, 2012. Not one of them displayed a badge or any other sign of identification. But every citizen who witness the event knew exactly who they were. They were known for terrorizing around the neighborhood. Their actions were not about property as I know it.

Here is a government agency, NYPD, the guys who believe they are above the law. Who drive in the city come to a red light and only yield, in their private cars when off duty, and then drive on. Where the blue and white will not stop a car that acts like that because 9 out of 10 times that type of behavior is a person "on the job". The same undercover officers who can shoot a man 42 times and say he does not remember reloading. Imagine me saying that in the ARMY. Come on man, how stupid do they think people are? Where the mentality of a detective sees the norm of daily operations an act performed upon another human being by sticking a broom stick up a man's rectum. This is normal? And his cohorts don't say anything about it until its out in the open by way of the news or an IAB investigation or caught on camera.

How normal is the behavior acted upon me? How normal and right is it to look at a man's nakedness in the streets of New York City. To squeeze my buttocks and say look how tight Victor ass is. Pull my pants away from my body to look at my nakedness. How is this type of sexual harassment different from the people who acted upon defenseless actress by producers? How am I different. Because I am poor and Puerto Rican? Or did not present the case as a lawyer would.

What is the responsibility to produce discovery information when I identified the Officers involved? The date of occurrence. This NYPD Detectives working assigned to the North Bronx Narcotics Bureau (NBBX), had to sign out a gray van on that day. They had to sign and list who the driver would be and who would be the passengers. How many miles on the odometer. How much gas in the tank. This is all regular motor pool records. This vehicle came out of the Yonkers Offices. Why do I have to lay down the ground work that should have been done from the very beginning. Did not the lawyers from the City Law Department understand the rule of Mandatory Initial Discovery?

**At the very beginning of the lawsuit () each party must automatically provide certain information and documents to all other parties, without the need for a request.
FRCP 26(a)(1)**

I would like to present to this Court that it made a ruling on a Summary Judgment during the time I was out of contact with the Court because of the November 12, 2015 arrest and I could not know or could have presented the above information to the Court that the Lawyers for the City Law Department had a due diligence duty to provide me with the names of the Officers assigned to the North Bronx Narcotics Bureau (NBBX), who performed on me an act of sexual harassment and forced sexual touching in public terrorizing me in public by the actions of one officer who was protected by others who were direct witness to the incident.

As the protection goes on with the attorneys for the City Department of Law not providing this information to me they are supporting the same “Blue Wall of Silence” that has continued to violate citizens of the City of New York not only by acts of sexual harassment but physical and emotional assaults by bad apples of the NYPD.

But, the lawyers for the defense, who all have been women, understand my position better than anyone. Their career dictates that they practice the exegesis they studied in school to argue any subject matter from both sides of the coin irrelevant of your feelings, values, principles. In view of this, do you see how brave Detective Rosa really was on that day. Because it is the women of our society who understand my complaint better than anyone. The attorneys will argue the court has made a ruling on this issue. And I would have to argue that the entire idea of submitting the summary judgement when into effect while I was incarcerated. Isn't that strange that nothing was done until I became incommunicado by way of being arrested which was put into effect by NBBX. This happened upon me on November 12, 2015 arrest. All of this is public record for all to read.

Why was Detective Rodriguez one of the arresting officers who came into my apartment to arrest me on November 12, 2015 when he is part of the team of North Bronx Narcotics (NBBX). A cohort of the defendants. The same laptop I told the Court contained the information to support the complaint. After I was taken out of my apartment my laptop and Nikon camera disappeared. I learned that when I went to storage after my release of November 7, 2017. Do you know the Court can order Microsoft to locate that Surface book by its Mac Address and we would know exactly where the laptop has been since my arrest of November 12, 2015? That would be some nice information, wouldn't it?

But if Detective Rodriguez is part of North Bronx Narcotics (NBBX) why was he one of seven arresting officers when none of the others were anyway related to NBBX, they were DEA.

Another fact the court should know is the Criminal Investigation began after I filed this 1983 complain. And up to this date the probable cause to investigate and arrest was based on

an eavesdropping warrant which when I ask the Honorable Justice Obus, Michael, J., Administrative Judge Criminal Division of the New York State Supreme Court system at 100 Centre Street there was no record of this Eavesdropping Warrant on Indictment # 4367/15. The request was passed on to F. Halwick, SCC, CAP Unit who wrote me back to inform me no warrant has been located. No one has a copy or has seen the warrant. Yet, the law says they must save a copy of this warrant for ten years. One better is they claim to have the authority for an active eavesdropping warrant from March to November, a total of eight months or original application with seven extensions, I don't think so. And March of 2015 was the filing of this 1983. How crazy is that? Does the court see how the time lines run alongside each other, Why is that?

Bringing us up to the current date of replying to the current request of the defense for summary judgment. A request of this court to grant summary judgment on "no issues of fact exists".

A look at the facts:

Detective Goulart arrested me on March 19, 2012.
No evidence to support that arrest.
Detective Rosa Gonzalezvoiced concern on the legality of the arrest.
Detective Goulart lied on a sworn court affidavit which he signed to state elements of a crime to justify his arrest.
Detective guilty of falsifying legal court documents.

THEN:

The infamous Detective John Doe, North Bronx Narcotics Bureau, NBBX, and his supporting cohorts, of the sexual harassment claim, prematurely decided while I was in a state of inability to properly communicate with the court.

As the court knows I was in the Riker's Island system of not providing adequate access for the inmates to access the law library, and if an inmate does get access,

between the constant daily security alarms, once a week, it is for an hour, an hour and a half if you sacrifices your meal, then non-working typewriters, or a computer kiosk legal research system that takes 10 to 20 minutes to log on, if you can on that date. The results are a systemic breakdown on the entire inmate law library access. Making access to the law library no more than access to a room where you can sit down if you can find an available chair. In all practicality it is the place where drugs and weapons are passed from one inmate to another and delivered to another housing block. If the computers are down, well no longer do you have the luxury of reading the "Black Books of McKinney's Law" those books are not kept in the law library anymore for a generation which does not read nor understands the importance of having written materials.

In view of the above this Petitioner could not write, design a letter or writ of opposition to the first request for Summary Judgment presented to this court and ruled upon, which dismissed the most important element of this claim, the claim against Detective John Doe, (NBBX), for sexual harassment, forcible sexual touching, in June of 2012.

FACTS:

The dismissing of the claim was premature, because the Court in granting the first Summary Judgment, did not know nor could have known the attorneys for the City Law Department had violated discovery Federal Rules of Civil Procedures, FRCP 26(a)(1). It was their duty to provide a citizen, not incarcerated at the time, with voluntary discovery without the request being made by the other party. In this case the most obvious discovery would be the name, badge number, of all Detectives in the Gray van

driven on the Grand Concourse in June of 2012 and not to support he "Blue Wall of Silence", not only supported by Officers but by people who work with them and for them. Some things in our society and the culture of New York City are very hard to change.

FACTS:

Had the attorneys for the City Law Department followed the rules of this Court and provided the information on Detective John Doe and not willingly and intentionally violate this court's rules of procedures, then we would known the undisputed facts of the main element of this claim in front of this Court.

Who signed the Grey Van out of the Motor Pool in June 2012.

Names of all people assigned to the Van.

Miles logged out – miles logged in

Time out – time in

Gas out – gas on return

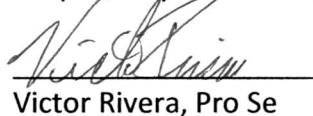
Information like this, to know it should have been provided long ago according to the federal rules of civil procedure, and lawyers know this very basic fact of moving within the federal court system and they did not act on, felt no responsibility to perform their part, felt better to keep it hidden then expose the truth. Makes a common man like me wonder about the people who see no value or principles of good conduct in the work they do. Who talk and look a good gamesmanship but are no better then the drug dealers on the corner destroying communities. No sense of acting responsible, no integrity – a sense of doing what is right no matter who is looking at you or not—you do it because you have principles and values.

CONCLUSION

This petitioner prays this reply will be accepted by this most distinguished court in good faith and with the only purpose of providing the best information to the court that I feel I can provide as a common man not having the legal abilities, or sound argument courts are normally entertained with in their daily routine. My sole purpose was first to explain the pain acted upon me, and to inform the court the best way I could.

I do pray in this civil case, the request for Summary Judgment will be denied. And a review of the first request granted, without the court's knowledge of the violations to federal rules of discovery will be overturned or in the alternative, I be granted the right to appeal the original decision of the first granting of the Summary Judgment which dismissed the one of the main element of this civil claim for forcible sexual touching and sexual harassment. As I follow all the women of this nation to say: to the North Bronx Narcotics Bureau of 2012, Times up!

Respectfully submitted,



Victor Rivera, Pro Se